

46 Am. Jur. 2d Judges § 127

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Judges

Glenda K. Harnad, J.D.; and Kristina E. Music Biro, J.D., of the staff of the National Legal Research Group, Inc.

IX. Disqualification to Act in Particular Case

B. Grounds for Disqualification

4. Bias or Prejudice as Grounds for Disqualification

a. Bias or Prejudice as Grounds for Disqualification, in General

§ 127. Origin of judge's bias; requirement that bias be extrajudicial

[Topic Summary](#) | [Correlation Table](#) | [References](#)

West's Key Number Digest

West's Key Number Digest, [Judges](#)  49(1), 49(2)

It has been found that, if a judge is actually prejudiced, the cause of the prejudice, and whether it is warranted or not, are immaterial upon the question of the judge's qualification to sit.¹ However, although there is authority to the contrary,² it has been generally considered that the alleged bias and prejudice of a judge must stem from an extrajudicial source and result in an opinion on the merits on some basis other than what the judge learned from his or her participation in the case³ or from a hearing in a related proceeding.⁴ Where the origin of a judge's impressions is inextricably bound up with judicial proceedings, the judge's alleged bias does not stem from an extrajudicial source.⁵ The formation of prejudice during a trial as a result of a party's testimony in the trial does not disqualify the judge in the trial in which it was arrived at,⁶ even where the judge takes the position that a party has lied on the stand.⁷ A judge's ordinary and natural reaction to the conduct of, or evidence developed about, a party in a case before him or her cannot create a disqualification for bias or prejudice.⁸

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Footnotes

- 1 [Payne v. Lee](#), 222 Minn. 269, 24 N.W.2d 259 (1946); [Murray v. Murray](#), 128 Wis. 2d 458, 383 N.W.2d 904 (Ct. App. 1986).
- 2 [State v. Howard](#), 23 A.3d 1133 (R.I. 2011).
- 3 [U.S. v. Grinnell Corp.](#), 384 U.S. 563, 86 S. Ct. 1698, 16 L. Ed. 2d 778 (1966); [Selkridge v. United of Omaha Life Ins. Co.](#), 45 V.I. 712, 360 F.3d 155 (3d Cir. 2004); [Andrade v. Chojnacki](#), 338 F.3d 448 (5th Cir. 2003);

Luker v. Sykes, 357 P.3d 1191 (Alaska 2015); State v. Greenway, 170 Ariz. 155, 823 P.2d 22 (1991); Heidt v. State, 292 Ga. 343, 736 S.E.2d 384 (2013); State v. Bear, 452 N.W.2d 430, 59 Ed. Law Rep. 197 (Iowa 1990); Anderson v. State, 402 S.W.3d 86 (Mo. 2013); Kemp v. State, 846 S.W.2d 289 (Tex. Crim. App. 1992); Dahl v. Dahl, 2015 UT 79, 2015 WL 5098249 (Utah 2015).

As to an adverse ruling as sufficient to establish bias or prejudice, see § 141.

4 Com. v. Rivera, 473 Mass. 1003, 39 N.E.3d 732 (2015).

5 State v. Williams, 601 So. 2d 1374 (La. 1992); Brendla v. Acheson, 554 A.2d 798 (Me. 1989).

6 Haldane v. Haldane, 232 Cal. App. 2d 393, 42 Cal. Rptr. 828 (2d Dist. 1965).

7 Deauville Realty Co. v. Tobin, 120 So. 2d 198 (Fla. 3d DCA 1960).

8 State v. Griffen, 241 Kan. 68, 734 P.2d 1089 (1987).

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